

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 22-CR-10038-IT
)	
ARIEL LEGASSA)	

Motion for Leave to File Pleading *Ex Parte* and Under Seal

Defendant Ariel Legassa hereby moves for leave to file a pleading *ex parte* and under seal. The pleading is a motion pursuant to Fed. R. Crim. P. 17(c) for service of trial subpoenas on third parties that require production of specified materials prior to trial.

As grounds for this motion, Legassa states that making the showing required for approval of Rule 17(c) subpoenas necessarily requires disclosure of defense strategy and avenues of cross-examination, advanced notice of which the government is not entitled. No constitutional provision or applicable rule requires that a defendant in a criminal case provide in advance a theory of defense.

The First Circuit Court Of Appeals has noted that the “the text of Rule 17(c) does not expressly prohibit *ex parte* request for subpoenas, and courts have found them to be permissible.” *United States v. Kravetz*, 706 F.3d 47, 53 n.4 (1st Cir. 2013).

For all of the foregoing reasons, the court should issue an order permitting Legassa to file *ex parte* and under seal his motion to serve third parties with trial subpoenas that require production of responsive materials prior to trial.

Respectfully submitted,

ARIEL LEGASSA,
by his attorney

/s/ *E. Peter Parker*

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Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on December 5, 2022.

/s/ *E. Peter Parker* _____

E. Peter Parker